

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
) CIVIL ACTION NO. 2:07-CR-34-WHA
)
LATRICIA DODD THOMAS) (wo)

ORDER

This cause is before the court on a Motion to Transfer to Federal Custody (Doc. #50).

The Defendant has requested that she be transferred to federal custody for service of her federal sentence. She contends that her federal sentence is to run concurrent with her state sentence.

On October 31, 2007, this court sentenced the Defendant to 27 months of custody after her conviction for Larceny Within Special Maritime Jurisdiction, in violation of 18 U.S.C. §661. The court sentenced her to 27 months to run consecutive to her then-not existing sentence in state custody. She was specifically advised by this court that her federal sentence would not run concurrent with any time she would service in state custody, but that she would begin service of the federal sentence when she completed whatever time she served in state custody and was released from that to federal authorities. She was then remanded back to State authorities.

On December 29, 2009, the Defendant was sentenced in Montgomery County Circuit Court to a 60-year sentence. The state court ordered her state sentence to run concurrently with her federal sentence. That order, however, had no effect on the previous order of this court.

The Federal Bureau of Prisons policy as stated at Program Statement 5880.28 of the Sentence Computation Manual, is that if a federal sentence is ordered to run consecutive to a non-existent state sentence, the federal sentence is not placed in operation until the U.S. Marshals Service or the Bureau of Prisons gains exclusive custody.

At the time of her sentencing in this court, the Defendant was not in federal custody; she was brought to this court from state custody on a Writ. Therefore, her federal sentence is to run consecutive to, not concurrently with, her state sentence.

Accordingly, it is hereby ORDERED that the Motion is DENIED.

DONE this 1st day of May, 2017.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE